

REMARKS

Claims 27-43 are pending in the present application. By this Amendment, Applicants have amended claims 27 and 38. Applicants have withdrawn claims 39-43. Applicants reserve the right to file a divisional application directed to the subject matter of the withdrawn claims.

Applicants' Response to Restriction Requirement

In the Office Action, the Examiner has required restriction under 35 U.S.C. §121 between one of the following Groups, which the Examiner has identified as distinct inventions:

Group I: Claims 27-38, drawn to a method for analysis of a solid material.

Group II: Claims 39-43, drawn to a system for analyzing a solid material.

Applicants elect to prosecute Group I, claims 27-38, drawn to a method for analysis of a solid material.

Applicants' Response to 35 U.S.C. §103 Rejections

Claims 27-30 and 32-38 are rejected under 35 U.S.C. § 103(a) as allegedly being obvious over U.S. Publication No. 2003/0131905 to Duffield et al. (hereinafter "Duffield") in view of U.S. Patent No. 7,101,510 to Vann (hereinafter "Vann"). Applicants respectfully submit that the cited combination of references fails to render the present claims *prima facie* obvious, as amended herein.

The Examiner asserted that Duffield "discloses a method for analysis of a solid sample including a coring tool for coring a sample into a compressed plug and extruding the plug with a pin". (Office Action, at page 3) (citations omitted). The Examiner acknowledged that Duffield fails to disclose that the sample is analyzed with radiation or that the coring tool and extruding sample is loaded onto a rack with a top plate having holes on a lifting plate. The Examiner cited Vann for such disclosure. In particular, the Examiner asserted that Vann "discloses a sample/core matrix system for analyzing samples via radiation absorption/emission using a diode laser, which can have a variety of including x-ray and IR spectra". (Office Action, at page 4). According to the

Examiner, it would have been obvious to one of ordinary skill in the art to combine the system of Vann with the method of Duffield to provide quick and accurate management of many samples.

Applicants have amended the claims herein to further define the invention. Specifically, Applicants have amended independent claims 27 and 38 to require the additional step of “analyzing the scattered radiation to obtain information about the crystalline structure of said solid material using powder X-ray diffraction or Raman spectroscopy”. As explained in the subject application, the presently claimed invention can be useful for the purpose of automating analysis techniques, such as powder X-ray diffraction (PXRD) and Raman spectroscopy. These analysis techniques are used to analyze the crystalline structure of solids, as recited in the amended claims. Nowhere in the cited references are methods for analyzing solids using PXRD or Raman spectroscopy contemplated.

In particular, Duffield is directed to methods of transferring defined quantities of pre-compacted powder into a form for use in a drug delivery device. Duffield merely teaches transferring pre-compacted powder material. Duffield does not disclose or suggest any methods for analysis of the powder material at all. Accordingly, nowhere in Duffield is there any teaching or suggestion of analyzing scattered radiation of solid materials to obtain information about the crystalline structure thereof. Nowhere in Duffield are PXRD or Raman spectroscopy analysis techniques even contemplated.

Vann is directed to methods for storing and dispensing reagents. Vann does not disclose or suggest any methods for analysis of the reagents. Although the Examiner cited Vann’s disclosure of a diode laser at column 3, lines 21-31, such disclosure is not relevant to Applicants’ present claims. In particular, Vann discloses the use of a diode laser as part of a detection assembly. The detection assembly merely detects the passage of reagents from the array. There is no disclosure or suggestion in Vann that the diode laser is used for analyzing the materials in any manner. Vann, accordingly, contains no teaching or suggestion of analyzing scattered radiation of solids to obtain information about the crystalline structure thereof. Vann also fails to contain any disclosure of PXRD or Raman spectroscopy analysis of solid materials.

In view thereof, both Duffield and Vann are devoid of any teaching or suggestion of analyzing scattered radiation of solids to obtain information about the crystalline structure thereof. Furthermore, nowhere in Duffield or Vann are PXRD or Raman spectroscopy analysis techniques even contemplated. As such, the cited combination fails to teach or suggest each and every element of Applicants' presently amended claims. One of ordinary skill in the art would not have found it obvious to arrive at Applicants' presently claimed methods for analyzing solids in view of Duffield and Vann.

Therefore, it is respectfully submitted that the presently claimed invention is not obvious over Duffield or Vann, each taken alone or in combination. Applicants respectfully submit that claims 27-38 are patentable over Duffield and Vann and request reconsideration and withdrawal of this Section 103 rejection.

Claim 31 is rejected under 35 U.S.C. § 103(a) as allegedly being obvious over Duffield in view of Vann and further in view of U.S. Patent No. 7,312,043 Maher (hereinafter "Maher"). Applicants respectfully submit that the cited combination of references fails to render claim 31 *prima facie* obvious.

The Examiner acknowledged that Duffield and Vann fail to disclose the method wherein the top plate of the rack absorbs radiation. Maher was merely cited for its disclosure relating to properties of multiwell plates, including the absorbance of radiation. Maher fails to contain any disclosure of relevance to Applicants' amended claims, particularly the step of analyzing scattered radiation to obtain information about the crystalline structure of solids using PXRD or Raman spectroscopy. Maher, therefore, fails to cure the deficiencies of Duffield and Vann in this regard. In view thereof, it is respectfully submitted that claim 31 is patentable over the cited combination of Duffield, Vann and Maher. Applicants respectfully request reconsideration and withdrawal of this Section 103 rejection.

CONCLUSION

The Commissioner is hereby authorized to charge any deficiency or credit any overpayments necessitated by this Amendment to Deposit Account No. 10-0750/TPI5054USPCT/JL.

Early favourable action on the merits is respectfully requested. Applicants respectfully request a timely Notice of Allowance of claims 27-38.

Respectfully submitted,

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